K 1951

File No. Prov. Munis Corporation II
51(R)

Legal Department
B **BRANCH**

Subject:— Rules under the Provincial Municipal Corporations Act, 1949

P-2
E

File No. Prov. Munis Corporation II/51(R)

Gen. 154 A

-344-B

Legal Department.

The view taken by the Municipal Commissioner, Poona Copporation, is not correct. Section 455 being self-contained as regards the requirements of previous publication and the manner in which such previous publication shall be made over tides the provisions of section 24(b) of the Bombay General Clauses Act, 1904. Sub-section (1) of section 455 requires that rules under section 454 shall be subject to the sanction of the State Government and to the conditions of the rules being made after previous publication. Sub-section (2) provides that all rules made under section 454 shall be finally published in the Official Gazette. Sub-section (3) then provides that in addition to the publication required under sub-sections (1) and (2), the Corporation may determine in each case what further publication, if any, is required for rules made or proposed to be made, The words "in addition to the publication" used in sub-section (3), and the words "or proposed to be made" used in that sub-section have been apparently lost sight of by the Municipal Commissioner, Sub-section (3) contemplates publication in Official Gazette which is the manner laid down in sub-section (2) and the words "proposed to be made" used in sub-section (3) contemplate that the draft of the rules also is to be published in the Official Gazette and if the Copporation so determines in any other manner. In these case the Corporation has only determined in what newspaper the draft rules should be published and the mandatory provision of sub-section (3) to publish the draft in Official Gazette has not been complied with.

Id/- J.R.D.
10/2

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D.No.2564,

dated the 10th February, 1951.

JPE.16/7/56.4c.

Office of the R.L.A.

The rule as proposed by the Municipal Commissioner of Ahmedabad relating the remission or refund of the property taxkx to the personal income of the onwer is likely to be held as making the tax in the nature of income tax and willbe ultra vires.

Id/- J.R.D.
5/12

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D.No.19540,

dated the 5th December 1951.

JPE.16/7/56.
4 copies.